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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,703	04/19/2001	Brian R. Dershem	P7926/00-868	7105

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
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Washington, DC 20037-3213

EXAMINER

DRAPER, DEANN L

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/905,703

Applicant(s)

DERSHEM ET AL.

Examiner

Deanna L. Draper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2.6</u> | 6) <input type="checkbox"/> Other: _____ |

Acknowledgements

The Information Disclosure Statements filed by the Applicant on March 19, 2002 and October 9, 2002 are acknowledged.

Claim Objections

Claims 10, 11, 13 and 14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 10 and 11 appear to depend from Claim 9 rather than Claim 8, and Claims 13 and 14 appear to depend from Claim 12 rather than Claim 11. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6 – 8, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Bauer et al. (US 4,150,474). Bauer discloses a method of manufacturing for a skid steer loader, including an undercarriage (70 in Fig. 3) including at least one crossmember (74, 75 in Fig. 3), a main frame assembly (24 in Fig. 2, 3), having a base/lower portion (50 in Fig. 3) with a front (52 in Fig. 8) and rear (55 in Fig. 8) section, and at least one recessed channel (see attachment)

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positioned between the front and rear sections on the base portion of the frame, extending across the width of the base portion and operably associated with a respective crossmember of the undercarriage for mounting thereto, with a vertical load being evenly distributed over the entire crossmember as it engages with the recess. Bauer also discloses a pair of space tower assemblies (58 in Fig. 3), a pair of side members (51) having front and rear portions with each side member being connected to a respective tower assembly (see Fig. 3), and a crossmember extending between the pair of tower assemblies (see 61), a lower frame assembly (50 in Fig. 3) having a pair of spaced vertically oriented side rails, and the upper frame is mounted to the lower frame assembly between the side members of the upper frame and the side rails of the lower frame (see 50 and 51).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 – 5, 9 – 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (US 4,150,474) as applied to Claims 1 and 9 above, and further in view of Zimmermann (US 5,293,949). Bauer discloses the invention as claimed, including an upper frame assembly having an operator cab (16 in Fig. 2) and a hydraulic lift arm (33 in Fig. 2), and a recessed channel that defines a strengthened region operable to provide torsional stiffness to the skid steer loader, however the undercarriage is not a tracked undercarriage with left and right

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track assemblies connected by at least one cross member. Zimmerman discloses a chassis for an endless track type vehicle including an undercarriage with right and left track assemblies (13 in Fig. 3) connected by at least one cross member (11 in Fig. 3) in order to provide ease in traveling rocky terrain. Therefore it would have been obvious to modify Bauer by including an undercarriage with right and left track assemblies connected by at least one cross member in order to provide ease in traveling rocky terrain as taught by Zimmerman. Further, the examiner notes that it is well known in the art to substitute tracks for wheels.

Regarding the material being a medium strength steel, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use medium strength steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Albright et al. (US 4,962,825) discloses a skid steer loader and (US 4,955,455) a method for assembling a skid steer loader. Anderson et al. (US 6,293,364) discloses a lower frame assembly. Jespersen (US 3,776,325) discloses an all terrain vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deanna L. Draper whose telephone number is 703-306-5939. The examiner can normally be reached on Monday - Friday, 9:00 - 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DNK
DEANNY CHAPER
PATENT EXAMINER

dld

Paul N. Dickson 3/22/04
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FIG. 3

